

SERVED: November 18, 1998

NTSB Order No. EA-4721

UNITED STATES OF AMERICA  
**NATIONAL TRANSPORTATION SAFETY BOARD**  
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD  
at its office in Washington, D.C.  
on the 4th day of November, 1998

_____	)	
JANE F. GARVEY,	)	
Administrator,	)	
Federal Aviation Administration,	)	
	)	
Complainant,	)	
	)	Docket SE-15279
v.	)	
	)	
WILLIAM W. WAWRZYNIAK,	)	
	)	
Respondent.	)	
_____	)	

**ORDER DISMISSING APPEAL**

The Administrator has moved to dismiss the appeal filed by the respondent in this proceeding because the appeal was not perfected by the filing of a timely appeal brief, as required by Section 821.48(a) of the Board's Rules of Practice (49 CFR Part 821).<sup>1</sup> We will grant the motion, to which respondent filed no answer.

<sup>1</sup>Section 821.48(a) provides as follows:

§ 821.48(a) **Briefs and oral argument.**

(a) Appeal briefs. Each appeal must be perfected within 50 days after an oral initial decision has been rendered, or 30 days after service of a written initial decision, by filing with the Board and serving on the other party a brief in support of the appeal. Appeals may be dismissed by the Board on its own initiative or on motion of the other party, in cases where a party who has filed a notice of appeal fails to perfect his appeal by filing a timely brief.

The record establishes that respondent filed a notice of appeal from the law judge's July 14, 1998 written initial decision, but he did not file an appeal brief within 30 days after the decision;<sup>2</sup> that is, by August 13.<sup>3</sup>

In the absence of good cause to excuse respondent's failure to perfect his appeal by the filing of an appeal brief, his appeal must be dismissed.<sup>4</sup> Administrator v. Hooper, 6 NTSB 559 (1988).

**ACCORDINGLY, IT IS ORDERED THAT:**

1. The Administrator's motion to dismiss is granted; and
2. The respondent's appeal is dismissed.

HALL, Chairman, FRANCIS, Vice Chairman, HAMMERSCHMIDT, GOGLIA, and BLACK, Members of the Board, concurred in the above order.

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<sup>2</sup>The law judge's order terminated the proceeding in view of respondent's failure to answer the complaint, which suspended, on an emergency basis, respondent's private pilot certificate (No. 183345571) for his failure to submit to a re-examination of his competence to hold such a certificate. Respondent waived expedited processing of his appeal from the Administrator's action.

<sup>3</sup>No appeal brief has to date been received from respondent.

<sup>4</sup>Even if the respondent had filed a timely appeal brief, his appeal would be subject to dismissal because his notice of appeal, dated July 27, was untimely, as it was due on July 24, 10 days after the service date of the law judge's order. We note also that the July 27 date does not appear to be reliable as a filing date, as the envelope containing the notice is postmarked August 6, 1998.